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# **Judiciary Committee**

**Wednesday, January 25, 2006**

**9:30 A.M. – 12:00 P.M.**

**Morris Hall  
(17 HOB)**

## **Committee Action Packet**

# COMMITTEE MEETING REPORT

## Judiciary Committee

1/25/2006 9:30:00AM

**Location:** Morris Hall (17 HOB)

### Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
David Simmons (Chair)	X		
Kevin Ambler	X		
Dennis Baxley	X		
Frederick Brummer	X		
Anitere Flores			X
Dan Gelber	X		
Michael Grant	X		
Jeffrey Kottkamp	X		
Sheri McInvale	X		
Joe Pickens	X		
Juan-Carlos Planas			X
Curtis Richardson	X		
Dennis Ross	X		
John Seiler	X		
<b>Totals:</b>	<b>12</b>	<b>0</b>	<b>2</b>

Committee meeting was reported out: Wednesday, January 25, 2006 1:37:40PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

1/25/2006 9:30:00AM

**Location:** Morris Hall (17 HOB)

**HJR 39 : Limitations on Assessments of Residential and Commercial Property**

☒ *Discussed*

### Appearances:

HJR 39

Ed Piniero (General Public) - Proponent

1900 2nd Street

Indian Rocks Beach FL 33785

Phone: 727-595-0034

HJR 39

Katrena Hale-Claver (General Public) - Proponent

Owner - Sand Glo Villas

441 173rd Ave. E

North Redington Beach FL 33708

Phone: 727-320-9720

HJR 39

Mary Wilkerson (General Public) - Proponent

Owner - Gulfside Resorts

490 Harbor Drive North

Indian Rocks Beach FL 33785

Phone: 727-517-1823

Committee meeting was reported out: Wednesday, January 25, 2006 1:37:40PM

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)

ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)

ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)

FAILED TO ADOPT \_\_\_\_\_ (Y/N)

WITHDRAWN \_\_\_\_\_ (Y/N)

OTHER \_\_\_\_\_

Discussed

Council/Committee hearing bill:

Representative(s) Farkas offered the following:

**Amendment (with ballot statement and title amendments)**

Remove line(s) 27 through 57 and insert:

(c) The assessment of real property, other than property assessed under subsections (a) and (d), shall change only as provided herein. All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided herein.

(1) Assessments subject to this provision shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

a. Three percent (3%) of the assessment for the prior year.

b. The percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

(2) No assessment shall exceed just value.

(3) In the event property no longer qualifies for assessment under subsection (a) or (d), that property shall be assessed at just value as of January 1 of the year following the date the property ceased to qualify for assessment under those subsections. After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year. Thereafter, the property homestead shall be assessed as provided herein.

~~(4) New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead. That assessment shall only change as provided herein.~~

~~(4)(5)~~ Changes, additions, reductions, or improvements to homestead property shall be assessed as provided for by general law; provided, however, after the adjustment for any change, addition, reduction, or improvement, the property shall be assessed as provided herein.

===== B A L L O T   S T A T E M E N T   A M E N D M E N T =====

Remove line(s) 93 and insert:  
expand to additional types of property the limitations

===== T I T L E   A M E N D M E N T =====

Remove line(s) 4 and insert:  
limitations on assessments of

# COMMITTEE MEETING REPORT

## Judiciary Committee

1/25/2006 9:30:00AM

Location: Morris Hall (17 HOB)

HB 139 : Trespass

☒ Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Kevin Ambler	X				
Dennis Baxley	X				
Frederick Brummer	X				
Anitere Flores			X		
Dan Gelber	X				
Michael Grant	X				
Jeffrey Kottkamp	X				
Sheri McInvale	X				
Joe Pickens	X				
Juan-Carlos Planas			X		
Curtis Richardson	X				
Dennis Ross	X				
John Seiler	X				
David Simmons (Chair)	X				
Total Yeas: 12		Total Nays: 0			

Committee meeting was reported out: Wednesday, January 25, 2006 1:37:40PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

1/25/2006 9:30:00AM

Location: Morris Hall (17 HOB)

HB 145 : Apportionment of Damages in Civil Actions

☒ Favorable

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Kevin Ambler		X			
Dennis Baxley	X				
Frederick Brummer	X				
Anitere Flores			X		
Dan Gelber		X			
Michael Grant	X				
Jeffrey Kottkamp		X			
Sheri McInvale	X				
Joe Pickens	X				
Juan-Carlos Planas			X		
Curtis Richardson		X			
Dennis Ross	X				
John Seiler		X			
David Simmons (Chair)	X				
Total Yeas: 7		Total Nays: 5			

### HB 145 Amendments

#### Amendment 1

☒ Failed to Adopt

#### Amendment 2

☒ Withdrawn

#### Amendment 3

☒ Withdrawn

### Appearances:

HB 145 - Amendment 1  
Mickey Smith - Proponent  
13556 Northumberland Circle  
Wellington FL 33414  
Phone: 561-795-3018

HB 145 - Amendment 1  
Jay Cohen - Proponent  
2830 Fairway Drive  
Hollywood FL 33021  
Phone: 954-963-7997

Committee meeting was reported out: Wednesday, January 25, 2006 1:37:40PM

# COMMITTEE MEETING REPORT

## Judiciary Committee

1/25/2006 9:30:00AM

**Location:** Morris Hall (17 HOB)

HB 145

William Large (Lobbyist) - Proponent

Florida Justice Reform Institute

210 S. Monroe Street

Tallahassee FL 32399

Phone: 850-222-0170

HB 145

Barney Bishop (Lobbyist) - Proponent

Associated Industries of Florida

516 N. Adams Street

Tallahassee FL 32301

Phone: 850-224-7173

HB 145

George Meros (Lobbyist) - Proponent

Attorney, Gray-Robinson

301 South Bronough Street

Tallahassee FL 32302

Phone: 850-577-9090

HB 145 - Amendment 1-3

George Meros (Lobbyist) - Opponent

Attorney, Gray-Robinson

301 South Bronough Street

Tallahassee FL 32302

Phone: 850-577-9090

HB 145 - Amendment 1

Alexander M. Clem - Opponent

Academy of Florida Trial Lawyers

1616 So. Osceola Ave.

Orlando FL 32806

Phone: 407-420-1414

Committee meeting was reported out: Wednesday, January 25, 2006 1:37:40PM



## HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. HB 145

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)  
 ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)  
 ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)  
 FAILED TO ADOPT ☒ (Y/N) 2/9  
 WITHDRAWN \_\_\_\_\_ (Y/N)  
 OTHER \_\_\_\_\_

1 Council/Committee hearing bill: Judiciary Committee

2 Representative Seiler offered the following:

3  
4 **Amendment (with title amendment)**

5  
6 Remove lines 13 through 74, and insert:

7  
8 (3) APPORTIONMENT OF DAMAGES.--In cases to which this  
 9 section applies, the trier of fact shall apportion the total  
 10 fault for the occurrence giving rise to the legal proceeding  
 11 among the claimant and those parties to the action who may be  
 12 held legally liable, and the court shall enter judgment against  
 13 each party liable on the basis of such party's percentage of  
 14 fault and not on the basis of the doctrine of joint and several  
 15 liability, except as provided in paragraphs (a), (b), and (c):

16 ~~(a) Where a plaintiff is found to be at fault, the~~  
 17 ~~following shall apply:~~

18 ~~1. Any defendant found 10 percent or less at fault shall~~  
 19 ~~not be subject to joint and several liability.~~

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

20 ~~2. For any defendant found more than 10 percent but less~~  
21 ~~than 25 percent at fault, joint and several liability shall not~~  
22 ~~apply to that portion of economic damages in excess of \$200,000.~~

23 ~~3. For any defendant found at least 25 percent but not~~  
24 ~~more than 50 percent at fault, joint and several liability shall~~  
25 ~~not apply to that portion of economic damages in excess of~~  
26 ~~\$500,000.~~

27 ~~4. For any defendant found more than 50 percent at fault,~~  
28 ~~joint and several liability shall not apply to that portion of~~  
29 ~~economic damages in excess of \$1 million.~~

30  
31 ~~For any defendant under subparagraph 2., subparagraph 3., or~~  
32 ~~subparagraph 4., the amount of economic damages calculated under~~  
33 ~~joint and several liability shall be in addition to the amount~~  
34 ~~of economic and noneconomic damages already apportioned to that~~  
35 ~~defendant based on that defendant's percentage of fault.~~

36 ~~(b) Where a plaintiff is found to be without fault, the~~  
37 ~~following shall apply:~~

38 ~~1. Any defendant found less than 10 percent at fault shall~~  
39 ~~not be subject to joint and several liability.~~

40 ~~2. For any defendant found at least 10 percent but less~~  
41 ~~than 25 percent at fault, joint and several liability shall not~~  
42 ~~apply to that portion of economic damages in excess of \$500,000.~~

43 ~~3. For any defendant found at least 25 percent but not~~  
44 ~~more than 50 percent at fault, joint and several liability shall~~  
45 ~~not apply to that portion of economic damages in excess of \$1~~  
46 ~~million.~~

47 ~~4. For any defendant found more than 50 percent at fault,~~  
48 ~~joint and several liability shall not apply to that portion of~~  
49 ~~economic damages in excess of \$2 million.~~

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

~~For any defendant under subparagraph 2., subparagraph 3., or  
subparagraph 4., the amount of economic damages calculated under  
joint and several liability shall be in addition to the amount  
of economic and noneconomic damages already apportioned to that  
defendant based on that defendant's percentage of fault.~~

~~(c) With respect to any defendant whose percentage of  
fault is less than the fault of a particular plaintiff, the  
doctrine of joint and several liability shall not apply to any  
damages imposed against the defendant.~~

~~(d) In order to allocate any or all fault to a nonparty, a  
defendant must affirmatively plead the fault of a nonparty and,  
absent a showing of good cause, identify the nonparty, if known,  
or describe the nonparty as specifically as practicable, either  
by motion or in the initial responsive pleading when defenses  
are first presented, subject to amendment any time before trial  
in accordance with the Florida Rules of Civil Procedure.~~

~~(e) In order to allocate any or all fault to a nonparty  
and include the named or unnamed nonparty on the verdict form  
for purposes of apportioning damages, a defendant must prove at  
trial, by a preponderance of the evidence, the fault of the  
nonparty in causing the plaintiff's injuries.~~

===== T I T L E   A M E N D M E N T =====

Remove line 3, and insert:

actions; amending s. 768.81, F.S.; providing for apportionment  
of fault; deleting exceptions to

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## HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. HB 145

COUNCIL/COMMITTEE ACTION

ADOPTED	___ (Y/N)
ADOPTED AS AMENDED	___ (Y/N)
ADOPTED W/O OBJECTION	___ (Y/N)
FAILED TO ADOPT	___ (Y/N)
WITHDRAWN	<input checked="" type="checkbox"/> (Y/N)
OTHER	_____

1 Council/Committee hearing bill: Judiciary Committee

2 Representative Seiler offered the following:

3

4 **Amendment (with title amendment)**

5 Between lines 74 and 75, insert:

6

7 Section 2. Section 766.118, Florida Statutes, is hereby

8 repealed.

9

10

11 ===== T I T L E A M E N D M E N T =====

12 Remove line 5, and insert:

13

14 instead of joint and several liability; repealing s.

15 766.118, F.S.; relating to determination of noneconomic

16 damages in medical malpractice cases; providing

17

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amdt. 3

Amendment No. (for drafter's use only)

Bill No. HB 145

COUNCIL/COMMITTEE ACTION

ADOPTED \_\_\_\_\_ (Y/N)

ADOPTED AS AMENDED \_\_\_\_\_ (Y/N)

ADOPTED W/O OBJECTION \_\_\_\_\_ (Y/N)

FAILED TO ADOPT \_\_\_\_\_ (Y/N)

WITHDRAWN ☒ (Y/N)

OTHER \_\_\_\_\_

Council/Committee hearing bill: Judiciary Committee

Representative Seiler offered the following:

**Amendment (with title amendment)**

Between lines 74 and 75, insert:

Section 2. Except for entities to which the provisions of s. 768.28, Florida Statutes, apply; notwithstanding any other provision of law to the contrary, no person, as defined in s. 1.01(3), Florida Statutes, shall be immune or presumed immune from civil liability for damages arising from the person's negligence. For purposes of this section, "negligence" includes wrongful acts or omissions based upon theories of negligence, strict liability, products liability, professional malpractice, whether couched in terms of tort or contract, or breach of warranty and like theories.

RENUMBER SUBSEQUENT SECTION

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

===== T I T L E   A M E N D M E N T =====

Remove line 5 and insert:

instead of joint and several liability; providing  
that no person shall be immune from damages for  
negligence and providing an exception; providing

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# COMMITTEE MEETING REPORT

## Judiciary Committee

1/25/2006 9:30:00AM

**Location:** Morris Hall (17 HOB)

**PCB JU 06-02 : Extraordinary Vote to Amend Constitution to Increase or Impose Taxes, Fees, or Significant Financial Impact**

☒ *Not Considered*

Committee meeting was reported out: Wednesday, January 25, 2006 1:37:40PM

# **COMMITTEE MEETING REPORT**

## **Judiciary Committee**

**1/25/2006 9:30:00AM**

**Location:** Morris Hall (17 HOB)

### **Other Business Appearance:**

Appropriate scope of the Florida Constitution

Robert Williams (At Request Of Chair) - Information Only

Professor of Law, Rutgers Law School

217 N. 5th Street

Camden NJ 08102

Phone: 856-225-6372

Appropriate scope of the Florida Constitution

Preseident Talbot D'Alemberte (At Request Of Chair) - Information Only

College of Law, Florida Stare University

425 W. Jefferson Street

Tallahassee FL 32306

Appropriate scope of the Florida Constitution

James R. Eddy (At Request Of Chair) - Information Only

2631 East Oakland Park Blvd.

Fort Lauderdale FL 33306



# COMMITTEE MEETING REPORT

## Judiciary Committee

1/25/2006 9:30:00AM

**Location:** Morris Hall (17 HOB)

### Summary:

#### Judiciary Committee

*Wednesday January 25, 2006 09:30 am*

HJR 39 Discussed

HB 139 Favorable

Yeas: 12 Nays: 0

HB 145 Favorable

Yeas: 7 Nays: 5

Amendment 1 Failed to Adopt

Amendment 2 Withdrawn

Amendment 3 Withdrawn

PCB JU 06-02 Not Considered

Committee meeting was reported out: Wednesday, January 25, 2006 1:37:40PM

# Aggregate Millage and Taxes Levied by County: 2004 and 2005

DOR 1/24/06

Hundred

	Millage Data (Aggregate Mills)*			Taxes Levied		
	2004	2005	Difference	2004	2005	% Change
	Aggregate Millage	Aggregate Millage		Total Taxes Levied	Total Taxes Levied	
Alachua	24.9295	24.6798	(0.2497)	212,982,188	238,241,881	11.9%
Baker	20.2854	19.8782	(0.4072)	10,442,206	11,635,857	11.4%
Bay	15.7868	14.9302	(0.8566)	143,005,934	186,817,512	30.6%
Bradford	19.3926	19.1075	(0.2851)	12,003,806	12,975,649	8.1%
Brevard	19.5034	18.7043	(0.7991)	492,169,786	568,486,201	15.5%
Broward	24.1686	NA		2,783,387,398	NA	
Calhoun	16.9544	15.9645	(0.9899)	4,374,537	4,403,311	0.7%
Charlotte	16.1908	15.8366	(0.3542)	210,196,317	255,337,043	21.5%
Citrus	19.3136	18.4442	(0.8694)	137,344,676	160,919,563	17.2%
Clay	18.2441	17.7237	(0.5204)	117,643,524	132,555,160	12.7%
Collier	12.8559	12.7244	(0.1315)	659,425,299	782,230,762	18.6%
Columbia	20.1660	20.1259	(0.0401)	33,452,554	37,824,645	13.1%
Dade	23.2735	23.0591	(0.2144)	3,389,186,503	3,943,800,699	16.4%
DeSoto	18.8634	18.5906	(0.2728)	20,348,129	21,550,505	5.9%
Dixie	22.0447	22.2095	0.1648	8,766,358	10,788,080	23.1%
Duval	18.7640	18.5872	(0.1768)	760,534,998	849,956,044	11.8%
Escambia	18.9406	18.5791	(0.3615)	218,388,744	214,061,140	-2.0%
Flagler	16.9760	16.3078	(0.6682)	97,840,062	128,989,626	31.8%
Franklin	8.6719	6.7279	(1.9440)	18,446,603	22,460,242	21.8%
Gadsden	19.0580	19.0607	0.0027	19,121,433	20,498,381	7.2%
Gilchrist	19.8535	19.5606	(0.2929)	8,054,366	9,041,620	12.3%
Glades	19.3881	21.2027	1.8146	8,919,214	11,918,292	33.6%
Gulf	14.3183	12.5477	(1.7706)	24,711,186	33,282,017	34.7%
Hamilton	19.0835	19.0162	(0.0673)	10,280,904	10,939,922	6.4%
Hardee	18.4000	18.1985	(0.2015)	24,801,135	24,416,876	-1.5%
Hendry	22.0841	21.5714	(0.5127)	37,059,092	41,430,470	11.8%
Hernando	20.0482	19.6678	(0.3804)	127,150,173	150,981,506	18.7%
Highlands	19.4112	19.0262	(0.3850)	67,649,545	79,323,837	17.3%
Hillsborough	23.8305	23.2396	(0.5909)	1,333,897,508	1,502,884,797	12.7%
Holmes	18.4356	17.8894	(0.5462)	5,976,381	6,142,698	2.8%
Indian River	17.4690	16.8174	(0.6516)	213,149,215	239,833,686	12.5%
Jackson	15.5768	15.3128	(0.2640)	16,628,628	17,419,851	4.8%
Jefferson	19.8349	19.5745	(0.2604)	7,513,392	8,536,331	13.6%
Lafayette	19.0489	18.6053	(0.4436)	2,964,916	3,196,353	7.8%
Lake	18.5126	18.3198	(0.1928)	217,867,722	260,977,651	19.8%
Lee	19.2797	19.8120	0.5323	968,928,577	1,269,437,812	31.0%
Leon	20.9007	20.4088	(0.4919)	228,007,621	257,849,333	13.1%
Levy	19.3826	18.9436	(0.4390)	25,605,249	30,272,299	18.2%
Liberty	16.7185	16.6328	(0.0857)	2,163,827	2,163,827	0.0%
Madison	20.4283	18.1322	(2.2961)	9,304,126	9,311,772	0.1%
Manatee	18.4187	18.2798	(0.1389)	389,282,394	451,310,086	15.9%
Marion	18.7560	18.0536	(0.7024)	208,802,476	235,878,621	13.0%
Martin	17.4585	17.1158	(0.3427)	269,773,312	302,812,232	12.2%
Monroe	10.6129	9.3673	(1.2456)	184,045,374	204,090,103	10.9%
Nassau	18.7615	17.7824	(0.9791)	93,036,465	105,793,160	13.7%
Okaloosa	15.1126	15.0588	(0.0538)	162,979,449	204,699,749	25.6%
Okcechobee	18.6200	17.4387	(1.1813)	27,669,351	32,313,958	16.8%
Orange	18.4258	18.6474	0.2216	1,240,993,964	1,409,316,267	13.6%
Osceola	16.4825	17.5166	1.0341	224,429,693	283,212,179	26.2%
Palm Beach	21.1489	20.7279	(0.4210)	2,355,603,777	2,702,306,972	14.7%
Pasco	18.4047	17.0565	(1.3482)	299,346,451	340,292,724	13.7%
Pinellas	22.0879	22.4007	0.3128	1,212,614,706	1,409,369,854	16.2%
Polk	18.6216	19.9876	1.3660	384,960,256	475,785,455	23.6%
Putnam	20.8357	20.4047	(0.4310)	58,931,635	64,600,660	9.6%
Saint Johns	16.8525	15.6508	(1.2017)	240,504,525	273,101,176	13.6%
Saint Lucie	24.0310	23.4210	(0.6100)	328,566,092	412,390,238	25.5%
Santa Rosa	14.9774	14.9043	(0.0731)	90,281,053	98,965,585	9.6%
Sarasota	15.7216	15.1671	(0.5545)	609,641,304	704,698,966	15.6%
Seminole	18.2327	17.6287	(0.6040)	388,506,434	423,958,700	9.1%
Sumter	18.7709	16.8693	(1.9016)	44,042,441	57,314,135	30.1%
Suwannee	19.9366	19.1931	(0.7435)	19,790,951	21,856,488	10.4%
Taylor	18.0688	18.0303	(0.0385)	16,818,415	20,132,957	19.7%
Union	19.7647	19.7266	(0.0381)	3,411,225	3,410,288	0.0%
Volusia	23.0147	22.7481	(0.2666)	571,111,827	680,162,101	19.1%
Wakulla	18.8729	17.1189	(1.7540)	15,060,830	19,807,840	31.5%
Walton	11.7362	9.8118	(1.9244)	101,151,581	125,761,722	24.3%
Washington	19.3247	18.7489	(0.5758)	10,741,460	12,109,566	12.7%
Totals (w/o Broward)	19.5331	19.0802	(0.4529)	19,458,403,875	22,648,345,033	16.4%

\* Millages stated as aggregate mills. Aggregate mills are calculated by dividing total taxes levied by all taxing jurisdictions in a county by total taxable value in the county.